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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3633 OF 2007

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.M.S. Karnik for the applicants.

Mr.K.V. Saste, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 4TH DECEMBER 2007

P.C. :

1. Heard the learned counsel for the applicants and the learned A.P.P. for the State.

2. The applicants are charged for an offence punishable under sections 302, 307 read with 34 of the I.P.C. The prosecution case is that the applicants committed murder of Mangesh Jadhav and attempted to commit murder of his brother Arjun Jadhav. Arjun Jadhav is an eye witnesses to the crime and attempted to save the deceased. In the process, he was also assaulted, suffered injuries, but survived. Thus, there is evidence of eye witness. F.I.R. given by him

specifically mentions the names of the present applicants.

3. Learned counsel for the applicants submits that in the supplementary statement of Arjun, there is a variance and the applicant no.2 has not been specifically named. He, therefore, submits that the applicants are entitled to bail. In my view, the variance, if any in two statements, is a matter of appreciation of evidence at the trial. At this stage, it can be said that there is an eye witness and the eye witness has named the present applicants. The eye witness is also a victim in the incident.

4. Learned A.P.P. submits that if the applicants are exonerated, they are likely to pressurise the prosecution witnesses and tamper with the evidence and, therefore bail should not be granted.

5. Taking an overall view of the matter, in my view, it is not a fit case for grant of bail to the applicants at this stage. The applicants are in jail since 29th April 2007 and the trial is

likely to commence in a shortwhile. In the circumstances, the application is rejected.

6. It is clarified that all observations made in this order are only prima facie observations for considerating bail and the trial court shall not be influenced by any of the observations at the trial.

(D.G. KARNIK, J.)